



PRCC.37 14/15

**Committee: Prosperous  
Communities Committee**

**Date 16<sup>th</sup> December 2014**

**C**

**Subject: Selective Licensing in Gainsborough South West Ward**

Report by:

Chief Operating Officer

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Purpose / Summary:

To provide councillors with an update and information regarding the proposals for a selective licensing scheme in the South West Ward of Gainsborough

**RECOMMENDATION(S):**

**Councillors are asked to:**

- a) Review the progress made to date in regards to selective licensing and consider any additional information which might be required prior to a final decision on whether to proceed with the scheme is made at a meeting of this Committee early in the New Year.

## IMPLICATIONS

### **Legal:**

The Council is entitled to introduce a selective licensing scheme as per the Housing Act 2004 S80. In order to do so the authority must consider that amongst other criteria, the area is experiencing significant and persistent problems caused by anti-social behaviour; that some of the private sector landlords are failing to take action to combat the problem; and that making a designation will, when combined with other measures, lead to a reduction in, or elimination of the problem.

The legal framework is found in Part 3 (Sections 79 to 100) of the Housing Act 2004.

In order to satisfy these criteria additional work is being undertaken to identify the links between anti-social behaviour and the private rented sector and to provide a robust evidence base.

A table of the considerations that need to be made in regard to the overall scheme are shown in appendix 1.

### **Financial: FIN/92/15.**

Potential licence fees have been reviewed as per section 4 of the report. The licence fee is based on a cost recovery model in line with legislative requirements, case law and best practice from other authorities. Only the elements shown in the charging section can be recovered within the licence fee.

The proposed licence fee of £375 is in line with legislation and recovers all eligible costs. The total income received from the fee may be subject to change depending on the number of properties included in any scheme. Should the cluster area proposed be designated, enough income will be received to cover the costs of one officer, who will be responsible for running the scheme. Should the scheme size change then staffing will need to be reviewed.

The fee review will continue subject to the size of licensing area, which is still to be determined.

An additional £5k revenue funding to support the delivery of the landlord training programme in years 1 and 2 will be allocated from existing revenue resources. This will be key to ensuring the success of any selective licensing scheme.

Elected members should also note that additional costs may result from the implementation of the scheme to ensure that the tenant passport scheme is in place and to cover the legal and enforcement elements of licensing. The latter elements can be met via existing budgets. The impact of implementing the tenant passport scheme will be reviewed subject to the size of any licensing area that proceeds.

**Staffing :**

Any scheme that is implemented will be managed within the Housing and Communities Team and will work across the relevant work areas to ensure that the objectives of the scheme are met.

Any licence fee recovered will be used to cover the staffing costs for the scheme as shown in section 5 of the report and it is assumed that this will result in one officer being designated to deliver the selective licensing scheme. Management support will be provided as per the current arrangements within the team.

The level of staffing required will be determined by the number of properties that will be licensed. Should the number of properties that require licensing reduce from the estimate of 485 the Council will need to review how the scheme will be resourced.

Generally, any scheme will require support from the relevant work areas, particularly community safety and environmental protection to ensure that the appropriate level of provision is made in the area to ensure the scheme's success.

There will be an additional demand on the Home Choices Team to deliver the Tenant Passport element of the scheme and this will be met within existing resources and considered within any review of their current resources should it be required.

**Equality and Diversity including Human Rights :**

A full equality impact assessment (EIA) has been produced as part of the process for developing a selective licensing scheme. This EIA will be reviewed on a regular basis (at least annually) and will be specifically reviewed once the additional data relating to Anti-Social Behaviour has been collated. This will ensure that any scheme that is designated is looked at specifically in regard to its location.

Any selective licensing scheme that is introduced in the ward is generally believed to be of benefit to particular groups such as those who are disadvantaged and have no other alternative than to rent in the Private Rented Sector. The basis of any scheme is to bring about improvements to the standard of management in the sector, alongside the ability to take additional enforcement action should it be required. Overall, it is felt that benefits will be brought to the majority of groups should a selective licensing scheme be introduced. Where any adverse impacts are found, mitigation is available to reduce this impact and with regular review any additional impacts found can be addressed and dealt with accordingly.

Any scheme will allow the Council to undertake a greater number of Housing, Health and Safety Rating System (HHSRS) inspections, which in turn should bring about specific improvements for the identified vulnerable groups such as the over 60s and children.

Assistance will be provided for any stakeholders who may need to access information in specific formats in line with the Council's standard customer policies.

The EIA has identified certain groups for which there may be an adverse impact. These are mainly those persons who earn lower incomes, younger persons, migrants and those with disabilities or mental health concerns. There is also a particular impact, mainly financial, for landlords.

If landlords decide to increase property rents then those on low incomes may be adversely impacted. The Council has endeavoured to reduce the licence fee as much as possible to mitigate this, it should also be noted that market rents are likely to stay within the Local Housing Allowance rates for the relevant property size.

Younger persons, who may not have a tenancy history to support any application for property they make, may be in a situation where they cannot access tenancies in this area. As a result, the Council is committed to introducing the tenant passport scheme and will use the wider support available to it to ensure that this impact is minimised.

The impact on any persons that are disabled or have mental health concerns is mainly related to their ability to access and understand information relating to the scheme or from their landlord concerning their tenancy. These issues can be addressed via the Council's existing approach in regard to accessing information and will be reviewed as needed.

As the scheme consists of a fee payable by the landlord, the initial financial impact on this particular group will need to be monitored and mitigated if possible. The fees that are proposed are deemed to be reasonable and in line with legislation and the Council will work with individual landlords should the fees and their payment present any issue.

### **Risk Assessment :**

Legislative requirements – in order to implement a scheme the Council must satisfy the legislation. Not doing so may result in legal challenge and a scheme being implemented without the necessary supporting evidence. Selective Licensing no longer requires Secretary of State Approval. The risk of a legal challenge has been mitigated by a genuine and thorough consultation process. There still however, may be a legal challenge, which cannot be mitigated against.

Additional costs – in order for any licensing scheme to be successful the tenant passport element of the scheme will need to be introduced. The introduction of this will have a revenue implication for the Home Choices Team, which has been considered with a report regarding Home Choices Team resources due to be considered by Core Leadership Team on a future date. Other local authorities that have delivered selective licensing have done so in conjunction with other wider area initiatives.

Licence Fees – these will need to be reviewed in line with any changes to the area that may be subject to selective licensing. The fees can only be recovered for the costs associated to delivering the scheme and any additional costs such as legal costs or enforcement costs need to be met by other budgets. The total licence fees and enforcement fees may be lower than the cost to the authority of administering the scheme and completing mandatory duties where HHSRS hazards are found. Fees invoiced may also not be recovered and the debt recovery process will need to be followed.

Licensing Area – this will be determined following the additional data analysis. This analysis may provide evidence that is contrary to what is already believed therefore there is a risk that any proposed licensing areas may be subject to change depending on this evidence.

Does not achieve the outcome - The fees and effort required to license may cause landlords to withdraw from the letting market, increasing the number of empty homes or creating a sudden oversupply of properties for sale. Although this was perceived as a risk when the legislation came into force, the evaluation of completed selective licensing schemes in Wolverhampton and Gateshead has in fact shown a small reduction in the number of empty homes and an increase in investment in the area from more professional landlords.

Increased homelessness and displacement of hard to let tenants - The licence conditions for landlords to reference new tenants and deal with antisocial behaviour could be a barrier to vulnerable groups accessing privately rented accommodation, or merely lead to the problem of households moving just outside the designated area.

Completed schemes in Wolverhampton and Gateshead have shown no increase in homelessness. The Gateshead scheme found that the need for references led some tenants to change their behaviour. The Wolverhampton scheme found only four connected families moved to avoid referencing. The risk can be reduced by the provision of, or referral to, new and existing services such as floating support, partner agencies, good tenant training and accreditation, and ultimately ASB enforcement. The Council will assist landlords and tenants via its tenant passport scheme to ensure that both parties have the relevant information to enable them to let or tenant any properties with the licensing area

**A full list of risks and considerations is shown in appendix 1.**

**Climate Related Risks and Opportunities :**

None noted

**Title and Location of any Background Papers used in the preparation of this report:**

[Prosperous Communities Committee in June 2014](#) – Selective Licensing

**Call in and Urgency:**

**Is the decision one which Rule 14.7 of the Scrutiny Procedure Rules apply?**

i.e. is the report exempt from being called in due to urgency (in consultation with C&I chairman)

Yes

No

**Key Decision:**

A matter which affects two or more wards, or has significant financial implications

Yes

No

## 1. **Executive Summary**

- 1.1. This report outlines the proposals for selective licensing in Gainsborough South West Ward and provides councillors with information on the process undertaken so far, whilst also making recommendations as to how the scheme can proceed.
- 1.2. Selective Licensing has been discussed within the Council's internal governance processes and has been subject to Commercial Board, Corporate Leadership Team and Leader's Panel scrutiny.
- 1.3. There were 663 responses to the consultation survey and the majority of those responding were in favour introducing a selective licensing scheme. 67% of respondents felt a scheme should be introduced in the whole ward, and a further 9% felt that it should be for part of the ward. The consultation results are shown in appendix 2.
- 1.4. Key considerations are required to be made in regard to the level of data and analysis in regard to anti-social behaviour (ASB) and its links to the Private Rented Sector (PRS); the size of the area that will be impacted by selective licensing; the fee and additional costs that will be incurred in delivering the scheme. There are also a number of additional risks and considerations that councillors should consider which are shown in appendix 1.
- 1.5. Given the considerations above it is recommended to councillors that they review the content of the report and agree to receive a final proposal on the area that will be considered for selective licensing subject to the additional ASB analysis being completed. This will be early in 2015.
- 1.6. This additional analysis will be available during February 2015 and will be submitted for committee consideration after this date either at a scheduled committee or at a special meeting of the committee if considered appropriate.

## **2. Background**

- 2.1. This report outlines the proposals for selective licensing in Gainsborough South West Ward and provides elected members with information on the process undertaken so far, whilst also making recommendations as to how the scheme can proceed.
- 2.2. Selective Licensing has been discussed within the Council's internal governance processes and has been subject to Commercial Board, Corporate Leadership Team and Leader's Panel scrutiny.
- 2.3. There were 663 responses to the consultation survey and the overall response is in favour introducing a selective licensing scheme. 67% of respondents felt a scheme should be introduced in the whole ward, and a further 9% felt that it should be for part of the ward. The consultation results are shown in appendix 2.
- 2.4. A full list of the considerations and risk for the scheme are shown in appendix 1. The key considerations that need to be made by councilors to determine how the scheme proceeds are as follows:
  - a) The level of data and analysis in regard to anti-social behaviour (ASB) and its links to the Private Rented Sector (PRS)
  - b) The size of the area that will be impacted by selective licensing
  - c) The fee and additional costs that will be incurred in delivering the scheme

## **3. Consultation Overview**

- 3.1. The Council undertook a 10 week consultation exercise on the implementation of a selective licensing scheme for the South West Ward of Gainsborough running from 16<sup>th</sup> June 2014 to the 1<sup>st</sup> September 2014. This exercise consisted of a number of activities, with the main method being a direct mail out of information and a survey to all residents, tenants, landlords, business and agencies in the area. There were 663 responses to the survey.
- 3.2. Alongside the survey the Council conducted a number of consultation events including a local information day, attendance at the Gainsborough market and a specific day of presentations for specific groups. These specific groups were landlords and letting agents, residents and tenants and businesses and support services. A list of common questions asked is included as appendix 3.
- 3.3. On a day to day basis the Council also dealt with a high level of direct enquiries, mainly from landlords. These came in the form of letters, face to face discussions and telephone calls. This also included representations from local Councillors and the local MP on behalf of their constituents.



3.4. In summary, there were:

- 663 responses to the survey
- written submissions were received from the National Landlords' Association, Residential Landlords' Association and Chestnut Homes
- two letters of enquiry via Edward Leigh MP
- Numerous letters and email enquiries requesting additional information and requesting answers to specific questions
- Over 60 attendees across the consultation events held, as well as 40 landlords attending a specific event at the Guildhall

3.5. As a result of the consultation a number of amendments have been made to the initial proposals. The main amendments are as follows:

- Additional analysis of ASB data has been commissioned
- Proposed licence conditions have been reviewed and amended
- The licence fee has been reduced and additional information presented on its calculation and how this may be paid
- The area that may be subject to a selective licensing scheme is being reviewed as per the additional ASB analysis
- A tenant passport scheme will be introduced alongside any selective licensing scheme
- Additional training and guidance for landlords will be funded and delivered over the course of any scheme

#### **4. Anti-social behaviour data**

4.1. In order to designate a selective licensing area the authority must consider that amongst other criteria, the area is experiencing significant and persistent problems caused by ASB; that some of the private sector landlords are failing to take action to combat the problem; and that making a designation will, when combined with other measures, lead to a reduction in, or elimination of the problem.

4.2. The Police have provided detailed data, however it cannot be explicitly linked to all property addresses therefore assumptions cannot be made in terms of the problems being associated with properties from the PRS. Likewise the Council's internal recording system does not collate the data at this level. The data however does reinforce that within the Gainsborough area the South West Ward has the highest levels of ASB and crime and that within the ward, the cluster area is the area where the highest levels are occurring.

4.3. Other authorities that have proceeded with selective licensing schemes have used specialist analysts to produce reports that look at all of the relevant data, to ascertain whether there is a link between the PRS and ASB. An example of this is at [Waltham Forest](#) (click link to view)

4.4. On the 11<sup>th</sup> of November 2014, the Core Leadership Team approved that additional analysis in regards to the ASB data should be commissioned. This process has commenced and this work will be completed in February 2015.

This work will cost between £15k and £18k depending on the quality of data that is held by the Council and the Police. In order for a scheme to proceed in the South West Ward it is essential that the Council produces an analysis such as this. This analysis will look at the whole of Gainsborough to allow the necessary comparisons to take place.

- 4.5. As a result, this report proposes that in order to make an informed decision about any scheme that may be implemented in the future no decision on a designation should be made until this additional analysis has been completed. This consideration should be made at a future meeting of the Prosperous Communities Committee.
- 4.6. Throughout the consultation the level and quality of data provided has been challenged by respondents, therefore the additional analysis is essential.
- 4.7. The Council also needs to consider the implications of including the Town Centre within the initial data set (as addressed in section 3).

## **5. Selective Licensing Area**

- 5.1. The additional analysis looking at the links between ASB and the PRS, may require the Council to review the area that is to be subject to any selective licensing proposals. Currently the whole of the South West Ward is subject to the proposals.
- 5.2. The main concern raised regarding the current proposals is that the Town Centre area is included within the data, therefore any ASB related to the daytime and night time economy is also included.
- 5.3. The Police have subsequently produced an additional set of data for the following streets, which align with the Council's cluster area for empty homes. This is the area that lies between Tesco and Aldi on Lea Road, but does not include the waterfront area. It is this area, in which the Police data suggests the majority of the ASB issues are focussed.

The streets included are as follows:

Ashcroft Road	High Street	Stanley Street
Bacon Street	King Street	Stafford Street
Bridge Street	King Street East	Thornton Street
Britannia Terrace	Lea Road to 80/171	Tooley Street
Burton Street	Lewis Street	Trent Street
Cleveland Street	Linden Terrace	Trinity Court
Clinton Terrace	Marlborough Street	Trinity Street
Colville Terrace	Pillard House Lane	Wall Street
Cromwell Street	Portland Terrace	Waterworks Street
Darwin Street	Primrose Street	Wellington Street
Dickenson Terrace	Queen Street	Wheeldon Street
Drake Street	Ruskin Street	Willoughby Street
Florence Terrace	Sandsfield Lane to 155/180	Wintern Court
Frampton Terrace	Shakespeare Street	
Gordon Street	St Johns Terrace	

5.4. Within these streets there are circa 1,415 properties of which an estimated 485 are privately rented, which equates to 34%. There are also 94 long term empty properties within this area, which contribute towards the South West Ward having the highest number of long term empty properties within the district.

5.5. Alongside this the Council's ambitions for the Town Centre should be considered in terms of the impact that any licensing scheme may have. To implement a licensing based approach in this area, whilst at the same time aiming to regenerate the area may discourage potential investors who are looking at the area.

5.6. Until the additional analysis and data has been completed the defined area cannot be confirmed, however it is sensible to assume that any final area will not include the immediate town centre area due to the points raised above.

5.7. On this basis, subject to the additional analysis work, elected Members should note that the size of the area that may be subject to a licensing scheme is likely to be reduced and if introduced is likely to cover the streets primarily in the "cluster area" shown above. The final location of any scheme will be determined once this data is available and will be confirmed in a future report.

## 6. The Licence Fee

6.1. Further work on the proposed licence fee, taking into consideration the case law has produced an amended set of fees for the scheme. The original proposal of £550 for a five year licence equates to £110 a year or £2.11 per week. This figure has been reviewed in line with best practice and case law.

6.2. The review of the financial information has led to the following fees being used as the current position. The figures below set out the elements that a licensing scheme can charge for and the costs that this will incur per action for the Council. It is these costs per action, that when combined produce the final licence fee. The model used to produce this fee is one that has been tried and tested robustly within other Local Authorities.

<b>Cost Breakdown</b>	<b>Time Taken hours</b>	<b>Officer Grade</b>	<b>Hourly Rate</b>	<b>Cost</b>
Send out information pack and open record on Flare	01:00:00	25	£19.25	19.25
Answer queries on application process	01:00:00	25	£19.25	19.25
Log and scan application pack, link to database	00:30:00	25	£19.25	9.63
Land Registry search & input into database	00:30:00	25	£19.25	9.63
Land registry search fee				3.00
Council tax check	00:20:00	25	£19.25	6.42
Check application details	01:00:00	25	£19.25	19.25
check enclosures:-	01:30:00	25	£19.25	28.88
all relevent certificates				
'Fit and Proper' person check:-	02:00:00	25	£19.25	38.50
check self declaration				
check council records				
raise debtor, check payment	00:40:00	25	£19.25	12.83
update details on database	00:40:00	25	£19.25	12.83
Send out acknowledgement letter	00:20:00	25	£19.25	6.42
Inspection organisation & notifications	01:00:00	25	£19.25	19.25
Inspection of property	01:30:00	25	£19.25	28.88
Travel time	00:40:00	25	£19.25	12.83
Mileage				2.70
Prepare and send out draft licence to applicant & releve	01:30:00	25	£19.25	28.88
Redraft licence including feedback from landlord/manag	01:00:00	25	£19.25	19.25
Senior officer to check and sign legal notices	00:30:00	58	£41.77	20.89
Amend and send final licence for applicant & relevant pe	00:30:00	25	£19.25	9.63
revisit to check compliance with licence conditions	01:00:00	25	£19.25	19.25
Enter details on public register	00:30:00	25	£19.25	9.63
Minimum costs for postage				15.00
	<b>17:40:00</b>			<b>£372.06</b>

6.3. Based on the information within the cost breakdown it is proposed that the licence fee should be set at £375 to cover the five year licensing period. This equates to £75 per annum or £1.44 per week. Officers will continue to review the fee, however it should be noted that this fee will not fluctuate depending on the size of the scheme. Legislation determines what elements can and cannot be charged for, regardless of the scheme size. The charging schedule is designed to cover the costs incurred specifically for the administration and delivery of the licensing and cannot be used to generate income.

6.4. The income received to support the scheme is shown below along with the costs to the Council in regard to staffing.

	<b>15/16</b>	<b>16/17</b>	<b>17/18</b>	<b>18/19</b>	<b>19/20</b>	<b>Totals</b>
<b>Band 7 Officer</b>	27,500	29,200	31,000	33,000	33,900	154,600
<b>Overheads</b>	4125	4380	4650	4950	5085	23190
<b>Totals</b>	<b>31,625</b>	<b>33,580</b>	<b>35,650</b>	<b>37,950</b>	<b>38,985</b>	<b>177,790</b>
<b>485 Licenses @ £375</b>						<b>181,875</b>

- 6.5. Elected Members should note that the potential income received for the scheme over the five year period is £182k. This income would cover the costs of one Band 7 officer for the five year period who would be responsible for administering and enforcing the licence conditions. Given the Council's current staffing structure allocating responsibilities to one officer, at this level in line with other housing officers is deemed the most appropriate staffing solution. Other solutions will be considered should the size of the area be different to that shown above. It should be noted that a Band 7 officer will be required to ensure they have the appropriate knowledge and technical experience.
- 6.6. Subject to the additional analysis elected Members should also note that if any designated area is reduced in size from the 485 properties, this will impact the level of income that is received. Currently, the level of income covers the staffing cost proposed, however should this reduce then the staffing costs may not be covered by the licence fee, which cannot be increased to meet the gap. Should this be the case, the Council will need to consider how it resources the implementation of the scheme should the costs not cover that of one FTE. This consideration will need to be made by the relevant internal governance procedures and existing resources available and any capacity considered within this.
- 6.7. These costs do not include any legal costs or enforcement costs which would need to be met from the Council's existing revenue budgets as per the current arrangements regarding enforcement.
- 6.8. It is likely that in order to deliver the scheme, particularly in its initial stages, additional administration support will be needed from within the Council's existing staffing. After the initial administrative tasks are completed, the officer's sole focus will be on monitoring and compliance.
- 6.9. A discounted fee cannot be offered for early bird payees. The fee has to be set at one level for all licence holders. This is set by case law relating to the proposed fee structure as demonstrated by the ruling of the *Hemming (t/a Simply Pleasure) Limited v Westminster City Council* Court of Appeal case so far as fixing fees for regulatory authorisations such as for HMO and selective licensing.

- 6.10. Where a landlord is accredited by DASH and we have completed a fit and proper persons check, equivalent to that required for selective licensing or where a landlord owns more than one property it is proposed that the £38.50 charge for the fit and proper person test is removed from the licence fee as it will not need to be carried out multiple times for each property.
- 6.11. The payment of licence fees for landlords who own multiple properties has been raised as a concern within the consultation. At this stage, there are no proposals for specific payment arrangements to be made for these landlords, however due consideration will be given in regard to the circumstance of each individual should it be warranted.
- 6.12. Officers will work with finance and consider future case law in regard to reviewing the fee amount should it be required.

## **7. Additional Scheme Costs**

- 7.1. The consultation has highlighted that in order for any scheme to be introduced it may need to be supported by both a tenant passport scheme and the provision of training for landlords.
- 7.2. The current form of advice and guidance for landlords is provided via the landlord forums and existing arrangements with accredited agencies such as DASH. The Council can also utilise the resources provide by organisations such as DASH and the National Landlords Association.
- 7.3. Should a scheme be implemented there will be an additional requirement for circa £5k revenue funding in years 1 and 2 to provide this. This will provide training in areas such as dealing with ASB, tenancy management, fire safety and legislation updates. This will be met by existing revenue resources and delivered via the allocated staffing resource and will link into the Council's current Landlord Forum arrangements.
- 7.4. A tenant passport scheme will allow the Council to provide additional assurances to landlords in regard to any prospective tenants that they may wish to let their property to. This process will determine the level of risk associated with any particular tenant so prospective landlords can then utilise this to decide whether to proceed with the tenancy. This also provides assistance for tenants in terms of working with them to reduce the risk that they may pose and provide any additional support and guidance that is needed.
- 7.5. The scheme will check tenancy history for the past two years using the Council's records, our partner's records and with any current and previous landlords. This may include, but may not be limited to, any complaints of anti-social behaviour, domestic violence, rent arrears, damage to property, abandonment of property, breach of tenancy conditions, court orders, and illegal use of property, and / or criminal behaviour which is deemed to be relevant to tenancy management.

Depending on the results this may result in:

- **Full Membership (Green)** - Membership granted for six months. e.g. applicants must have held a previous tenancy within the last two years. Applicants with no history of rent arrears, anti-social or criminal behaviour related to the tenancy or tenancy management concerns.
- **Provisional Membership (Yellow)** - Membership granted for six months. e.g. applicants with minor rent arrears, anti-social or criminal behaviour related to the tenancy, tenancy management concerns, or who have not previously held a tenancy.
- **Rejected Membership (Red)** - Membership rejected for six months. e.g. applicants whose behaviour would have entitled a landlord to seek immediate possession of the property at court. i.e., significant rent arrears, serious anti-social / criminal behaviour, major problems involving tenancy management.

7.6. The final details of the tenant passport scheme are still to be agreed and will be included within any scheme guide documents that are produced for selective licensing. It is likely that they will consist of the points shown above.

7.7. This element of the scheme will be administered by the Home Choices Team and will put additional pressure on their resources. The level of additional resource pressure will be determined by the size of any eventual scheme. If it is a scheme for the whole ward (circa 700 properties) it is likely to require at least 0.5 FTE. This resource issue is identified in a separate report due at CLT regarding Home Choices Team resources and can be reviewed depending on the size of scheme that may be agreed.

7.8. Any licensing scheme introduced is likely to result in additional support being provided in the specific area due to an increase in service requests relating to areas such as ASB, noise and housing enforcement and it does not replace the Council's existing legislative responsibilities and powers. In order for the scheme to be successful the relevant areas of the Council will need to ensure that priority is given to this area in the short term (years 1 and 2).

## 8. Licence Conditions

8.1. Elected Members should note that the following amends have been made to the licence conditions following the consultation and case law updates. The final proposed conditions are shown in appendix 4.

- For tenant references clarity has been provided in regard to whether a tenant has been resident in the UK
- For terms of occupation and tenancy agreement it has been made clear that these must comply with current legislation
- The requirement for a carbon monoxide alarm has been removed in line with the Hyndburn RPT decision from July 2014
- The requirement for maintaining the exterior of the property in reasonable decorative order and state of repair has been removed in line with the Hyndburn RPT decision July 2014. These issues can be practically addressed using existing legislation available to the Council

- The conditions relating ASB have been reworded to request that reasonable and effective steps are taken by a landlord, in line with the Hyndburn RPT decision.
- Other minor wording amendments have been made as a result of the consultation process and feedback.

8.2. It was apparent in the consultation process that the requirements for dealing with ASB needed to be clearer. The Council is asking that a landlord takes reasonable and effective steps to reduce anti-social behaviour by persons occupying or visiting the house and must not permit the use of the premises for illegal purposes.

8.3. In support of this the Licence Holder must:

- confirm on request the steps being taken to deal with an incident of anti-social behaviour at, or in vicinity of, the property.
- co-operate with West Lindsey District Council, Lincolnshire Police and other agencies in resolving complaints of anti-social behaviour

## 9. Alternatives

9.1. Before designating a selective licensing scheme the Council must consider whether there are other courses of action available to them that might provide an effective means of dealing with the issues which the scheme is intended to address, and whether the scheme will significantly help them in dealing with those issues.

9.2. A report provided to [Prosperous Communities Committee in June 2014](#) outlined in section 7 the alternative considerations that have been made for the area. Based on this information the Committee agreed to commence with the consultation, which has now taken place.

9.3. It should be noted that since the commencement of the consultation in July 2014 there have been only two new landlords who have gained accreditation in the district.

## 10. Corporate Approach

10.1. Before designating a selective licensing scheme the Council must also ensure the making of a scheme is consistent with its overall housing strategy and is co-ordinated with its approach to dealing with homelessness, empty properties and ASB and the PRS.

10.2. Section 4 of the same report to elected members of the [Prosperous Communities Committee in June 2014](#) outlined the contribution that a selective licensing scheme would make to wider corporate priorities within the West Lindsey District Council Corporate Plan 2014 – 2016; Central Lincolnshire Housing Growth Strategy 2012/13 2017/18; West Lindsey District Council Housing Enforcement Policy; The Lincolnshire Empty



Homes Strategy 2010-13 (under review); and Wider Corporate Priorities at a service based level.

10.3. Alongside this work, the Localism Team via the South West Ward Partnership have developed a local action plan focussed on specific themes, which are shown below;

- Social: To reduce health inequalities and maximise life chance
- Physical: To develop a quality living environment, including surroundings, housing and secure tenancies that result in a place that people want to visit, live and continue to live in
- Safer: To reduce crime and the fear of crime
- Stronger Communities: To further enhance the community capacity and encourage more resilient communities who work better together

10.4. Each of these themes will have a supporting action plan, the first of which has been developed for the “Safer” theme. This action plan underpins the work in regard to ASB and crime that is being undertaken in the area and will assist in ensuring that any selective licensing scheme is effective.

## **11. Additional Information**

11.1. Public notice of any designation must be given once it is made. The designation cannot come into force until at least three months after it is approved. This public notice will be made should it be required following the production and publication of the additional analysis in regards to ASB and the subsequent report that will be presented to elected members.

11.2. A scheme can last for no longer than five years once designated and the Council is required to keep this designation under review. If following a review the Council considers it appropriate to do so it may revoke the designation.

11.3. It is proposed that the scheme is reviewed on an annual basis, with an update report provided to the relevant committees except for in year one, in which a six monthly update will be provided. The scheme will be monitored regularly via the Councils internal governance process.

11.4. To support any scheme implementation a full scheme guide will be developed and publicised to ensure there is clarity on the relevant matters and to assist any stakeholders involved within the scheme.

## **12. Summary**

12.1. The consultation process has been successful and has provided information that indicates that a selective licensing scheme would be well favoured within the Ward.

12.2. Additional evidence is being collated in regard to the links between ASB and the PRS. This evidence and its analysis will be presented to elected

Members at a future committee meeting to determine any final proposal for a scheme.

- 12.3. Any designation that is proposed will consider the results of this additional analysis as well as the financial viability of the scheme, which will depend on the size of the area and the number of PRS properties within it.

### **13. Recommendations**

Elected Members are asked to:

- 13.1. Note the progress made to date in regard to selective licensing
- 13.2. Note that a further report outlining the final proposals for selective licensing will be submitted for consideration to the February 3rd 2015 Prosperous Communities Committee or a special meeting of the Committee after this date prior to the election period, should this be required.

## Appendix 1: Selective Licensing Considerations

The following areas need careful consideration in regards to any decision that is made on the implementation of selective licensing for the South West Ward of Gainsborough. These issues have been raised via the consultation process.

	Issue	Implications for Scheme	Risk to Implementation	Comment	Update
1.	Requirement of specific data relating to ASB in private sector tenancies. Data also required to be split down to street and tenure level.	Scheme will not be justifiable if challenged unless this data is provided. At the moment the data is not specific enough to implement the scheme.	High (reduced to low once additional data is collated)	Data currently being requested via the Police and the Councils ASB officers.	Police data not conclusive and needs reviewing. To be discussed at SWW partnership on 25/9/14. CLT approval for additional analysis work to be undertaken.
2.	Impact on regeneration and investment in the area	Anecdotal evidence suggests that investors may not consider the area and some landlords may pull out of the area if scheme is introduced. Some major lenders not lending in areas where selective licensing is in place.	Medium	The implementation of the scheme could impact on the councils wider strategy for regenerating Gainsborough.	CLT to consider Town Centre inclusion and impact that this may cause in regards to wider regeneration aims.
3.	Lack of current wider strategy for regeneration of the area	A licensing scheme alone, will not change tenant behaviour, this is supported by consultation comments. The scheme may not be justifiable or have the necessary impact if there is	High (will reduce should wider strategy be in place)	Wider strategy, incorporating all SWW related projects, including capital investment	Wider strategy being developed by Localism. To be considered at 16/12 committee

		not a wider strategy for regenerating and improving the ward and area as a whole in place.		needs to be put in place prior to any selective licensing implementation	along with selective licensing proposal.
4.	Level and quality of consultation that has been undertaken. Specifically related to data presented within consultation information.	Data relating to issue 1 could be new data and has not formed part of the consultation process.	Low	Consultation process was thorough and widespread and data issues have been raised as per issue 1.	
5.	Size of area considered for selective licensing.	The whole ward (circa 700 private rented properties) is deemed to be too wide an area for the scheme.	High (reduced to low with additional analysis)	Consideration should be given to reducing the size of the area covered and focussing it based on data produced for issue 1. Survey data supports scheme between Tesco and Lea Road Station.	Initial police data supports view for looking at smaller area. Additional analysis will confirm area that will be subject to scheme..
6.	Potential resource and cost implications for the Council to ensure the scheme is successful.	The scheme can only recover costs related to specific elements of the scheme, therefore additional elements such as enforcement and legal costs will need to be met from the Councils general fund.	Medium	Via FOI requests the NLA state that the following councils have incurred the following additional costs: Leeds £100k	Scheme will require support from various service areas and capital projects. True cost unknown until scheme commences.

				Thanet £500k Swansea £29k	
7.	Landlord training package needs to be developed to support scheme.	If the scheme focuses on administration and enforcement it will not be effective in changing behaviours and dealing with the main issues.	Medium	Staff resource and partner resource will need to be committed to enable this.	Proposed that additional revenue is provided to support delivery of this element.
8.	Tenant passport training scheme essential in order for scheme to be successful	Mechanisms for improving tenant behaviour and to support landlords in obtaining references to meet the licensing conditions.	High	Staff resource and partner resource will need to be committed to enable this. Potential for impact on support services (e.g. floating support).	It is likely that Home Choices will require additional resources to carry out this function. Addressed within CLT report 11.11.14. Additional report for Home Choices resources due to go to CLT.
9.	Survey responses do not support low housing demand element of scheme	Additional and more reliable data will be required to compare the ward to similar wards and areas. This needs to confirm density of empty homes, for sale periods, tenancy turnover and choice based lettings property refusals.	Medium	Scheme can still be brought in on ASB issues only, however they are linked to issue 1.	Scheme will be focused on ASB element.
10.	The fee amount proposed and how it has been arrived at	The fee needs to be reasonable and justifiable so that it will stand up to challenge. Case law considerations	High	Legal view required on case law relating to fee setting and	Fee to be reviewed and aligned with new street area if

		need to be reviewed to ensure that the fee proposal is appropriate and is legal.		proposed discounts for landlords. Fee needs to be confirmed using a detailed fee calculator. Reduction needs to be considered for landlords with multiple properties to reflect time efficiencies in administering the licence (e.g. fit and proper persons test)	scheme size reduced.
11.	Impact on rental costs in the area	Survey data suggests that if implemented landlords will pass on cost of the licence to the tenant in the property in order to cover the additional costs	Medium	Proposed fee equates to £1.44 per week.	
12.	Risk of legal challenge and judicial or tribunal review	Anecdotal data from landlords and other selective licensing schemes suggests that there is a high likelihood of the Council facing a form of challenge should a scheme be introduced.	High	Legal challenge is likely and has occurred for schemes in many other areas.	
13.	Proposed licence conditions must be clear	Conditions relating to property improvement need to be removed due to the Hyndburn RPT decision July 14.	Low	Licence conditions can be amended to reflect case law	Licence conditions amended to reflect Hyndburn case law.

		<p>Conditions should not cover disrepair which will be enforced under Pt 1 of the Housing Act.</p> <p>Conditions have been amended in regards to inspections, disrepair</p>		<p>prior to any scheme commencing.</p>	<p>Will continue to be amended should they be required.</p>
14.	Waste Collection	<p>Waste services are concerned about licence conditions relating to bins. It is felt that this needs a ward wide approach, not just an approach for private landlords. There are concerns that receptacles used for storage will be presented or misused.</p>	Low	<p>Due to the complexities in regards to waste collection and the need for an all property solution this condition has been reviewed.</p>	<p>Licence conditions amended to remove requirement for receptacles and reworded to ensure adequate space for storage is provided.</p>

## Appendix 2: Survey Results

# West Lindsey District Council

## Selective Licensing Survey 2014

1. Do you live or own a property, or operate a business in Gainsboroughs South West Ward?

595	Yes	53	No
(91.8%)		(8.2%)	

2. Which of the following are you?

92 (14.0%)	A tenant in private rented accommodation
32 (4.9%)	A tenant in housing association property e.g. ACIS, Longhurst, Sanctuary
322 (49.0%)	An owner occupier
180 (27.4%)	A Landlord
4 (0.6%)	A Letting Agent
16 (2.4%)	Business
11 (1.7%)	Other

3. Which street(s) do you live or own a property, or run a business?

644 (100.0%)

4. Bearing in mind that for many people the private rented sector is the only housing they will be able to access, do you think the Council should endeavour to improve standards in the sector?

587	Yes	57	No
(91.1%)		(8.9%)	

5. Thinking about your local area do you think there are issues with anti-social behaviour and crime?



494 (76.7%)	Yes	150 (23.3%)	No
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6. If you answered yes to question 5, what types of problem are they?

321 (65.1%)	Flytipping / Environmental Crime
216 (43.8%)	Animal related
326 (66.1%)	Noise Nuisance
198 (40.2%)	Burglary
336 (68.2%)	Inconsiderate behaviours
148 (30.0%)	Verbal Abuse
222 (45.0%)	Drunken behaviour
49 (9.9%)	Abandoned vehicles
128 (26.0%)	Throwing objects
180 (36.5%)	Vehicle nuisance
233 (47.3%)	Drug related crime
62 (12.6%)	Other

7. Do you think private sector landlords should do more to combat any anti-social behaviour caused by tenants in their properties?

519 (82.5%)	Yes
110 (17.5%)	No

8. Do you think the South West Ward is a desirable place to live, compared to other parts of Gainsborough?

296 (48.2%)	Yes
318 (51.8%)	No

9. If you own a property, have you found it difficult to let or sell in the area?

127 (20.2%)	Yes
123 (19.6%)	No

379 (60.3%) Not applicable

10. Do you think any of the following would support landlords and tenants?

329 (55.5%) Landlord Training

491 (82.8%) Good tenant passports

434 (73.2%) Advice on rights and responsibilities

11. Do you agree that the evidence base produced by the Council supports the case for the introduction of a discretionary licensing scheme?

460 (73.6%) Yes

165 (26.4%) No

12. If you answered no to question 11, please state why:

187 (100.0%)

13. Looking at the proposed Licence conditions, do you think they are reasonable?

452 (72.8%) Yes

169 (27.2%) No

14. Please let us know of any amendments you feel should be made to the Licensing conditions:

203 (100.0%)

15. Do you think the basic fee of £550 for a 5 year licence per property is reasonable?

356 (58.3%) Yes

255 (41.7%) No

16. Do you think discounts should be given for:

	Yes	No
Prompt applications (£50 discount)	351 (68.3%)	163 (31.7%)
Accredited Landlords (£50 discount)	388 (75.6%)	125 (24.4%)

17. Overall do you agree that West Lindsey DC should introduce a selective licensing scheme for all privately rented dwellings within the South West Ward of Gainsborough to improve the management of the sector, increase housing demand and help tackle anti-social behaviour?

407 (67.2%)	Yes - all of the South West Ward
56 (9.2%)	Yes - part of the South West Ward
143 (23.6%)	No

18. If you opted to part of the South West Ward for question 17, what parts do you think should be included?

100 (100.0%)
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Alongside the quantitative analysis there were also a number of questions which required comments within the survey. A summary of these is shown below:

#### Survey results and analysis – qualitative

**Q3 – Which street(s) do you live or own a property, or run a business?** The answers to this question can be used for cross referencing where required. In relation to the quantitative statistics 91.8% of respondents live or own a property, or operate a business in the South West Ward.

**Q12 – If you do not agree that the evidence base produced supports the case for selective licensing please state why.** The main points that have arisen from the responses to this question are shown below. Where comments have been made that do not relate to this question or the legislation they have not been considered.

- Lack of evidence to directly link the private rented sector to the anti-social behaviour issues
- No evidence to suggest the scheme will work on its own
- The evidence and data was not sent with the questionnaire and is biased to gain approval
- Clear comparisons to other similar areas not included
- Risks relating to empty properties, lack of investment, rent increases, further stigmatising the area
- Other alternative options to licensing have not been explored fully
- The data needs to be mapped to specific streets and areas of the ward

**Q14 – Please let us know of any amendments you feel should be made to the licensing conditions?**

The main points that have arisen from the responses to this question are shown below. Where comments have been made that do not relate to this question or the legislation they have not been considered.

- Clarity needed around regularity of inspections required
- Conditions must be related to management of the property, not improving the property
- Conditions need to reflect what can already be addressed through existing legislation
- Further information needed on anti-social behaviour conditions and requirements to cooperate with the Police and other agencies
- Referencing requirements need clarifying

**Q18 – If you opted to include part of the South West Ward for the licensing scheme, what parts do you think should be included?**

The main points that have arisen from the responses to this question are shown below. Where comments have been made that do not relate to this question or the legislation they have not been considered.

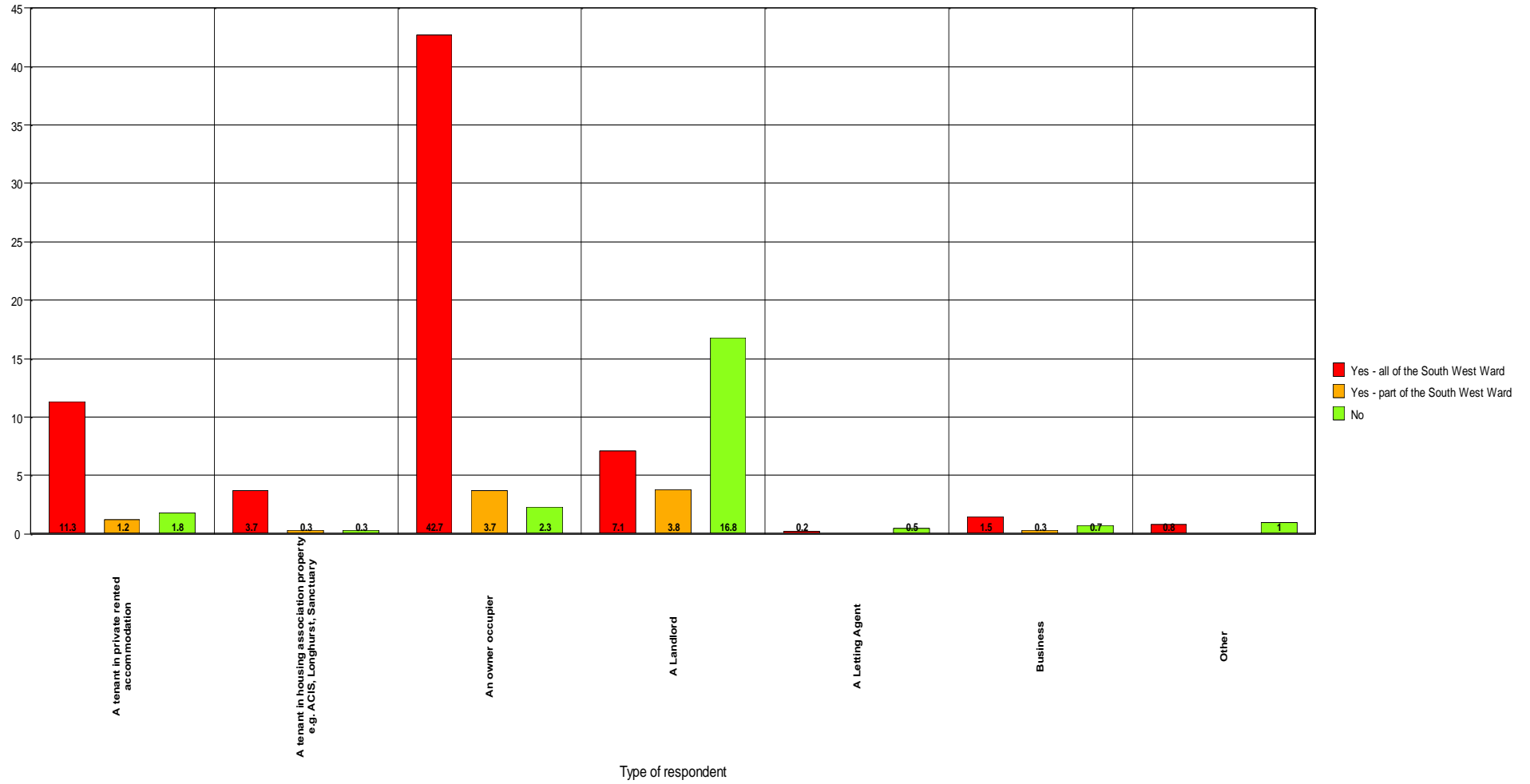
- the majority of persons responding to this question stated streets that were between Tesco and Lea Road station. The comments reflect the area that was looked at as part of the Neighbourhood Renewal Assessment.
- Trinity Street featured in a large number of comments where respondents were referring to areas in and around Trinity Street.
- The area by the riverside (Bridge Street) was generally deemed to not be in need of selective licensing measures as was the area South of Lea Road Station.

**Q19 –Are there any other comments you would like to make about the proposed licensing of all privately rented dwellings in the South West Ward of Gainsborough?** various comments were

included within this section and where appropriate they have been included with the Frequently Asked Questions document that will accompany the final report.

Figure 1:

Overall do you agree that West Lindsey DC should introduce a scheme by type of respondent?



## Appendix 3 – Frequently Asked Questions

### Selective Licensing Consultation Questions and Responses:

Question	Response
Will it just push up rents?	It is inevitable that some landlords will look to recover the licence fee from the rental income. Market rents in the South West Ward are lower than other areas of Gainsborough and local towns, and any increase in rents is likely to remain within Local Housing Allowance rates for the property size.
Will it lead to more empty properties?	Some landlords may withdraw from the private rented sector to avoid licensing and, in the case of unscrupulous landlords, the associated conditions. Other authorities who have introduced a scheme have found that while there was an increase in empty homes initially, there has also been increased interest from professional landlords willing to invest in the area and more purchases by owner occupiers, as confidence in the market increases, and these authorities have seen a reduction in empty homes over the licensing period. The council has enforcement powers to deal with empty homes if landlords just board them and walk away.
What would I get from this investment?	The licence fee covers the council’s staffing and administrative costs in processing and granting the licences only. However, landlords will receive training, access to a good tenant passport scheme, and hopefully more demand for their properties from reliable tenants, as add ons to the scheme.
What is the evidence that this would help?	Other authorities who have operated and evaluated successful licensing schemes have found that anti-social behaviour has reduced, the number of empty homes have reduced, and the private rental market has stabilised and improved. It is important for other projects, such as the good tenant passport, landlord training, and projects with environmental, social and economic benefits for the community to be run alongside licensing to complement the scheme.
When do I get a reward for being a good landlord?	We encourage all landlords in the district to join the DASH Lincolnshire landlord accreditation scheme. This voluntary scheme is currently free of charge, and supports and

	<p>promotes professional landlords with good quality, safe, rented properties. Accredited landlords can access council services such as the Bond scheme and Home Choices tenant referrals as well as advice and assistance from the project team. Please visit <a href="http://www.dashservices.org.uk/accreditation">www.dashservices.org.uk/accreditation</a> for more information and to register.</p>
<p>Are agents going to be held responsible?</p>	<p>Managing agents will need to be named in the licence application, and the council will consider whether the management arrangements are satisfactory when issuing a licence. Under the legislation, only the person having control of the property, which is usually the owner, will be accountable for the licence conditions, but they can use their agent to arrange works and vet tenants etc. Landlords will want to choose an experienced, responsible agent who will safeguard the landlord's legal obligations, and poor performing agents may struggle to operate in a licenced market.</p>
<p>As Landlord, why is anti-social behaviour my responsibility?</p>	<p>Landlords are responsible for ensuring that the behaviour of their tenants, in the home and its immediate vicinity, does not cause a nuisance to the community. Landlords are expected to challenge inconsiderate behaviour and to work with the council and police to manage incidents of ASB by their tenants, which relate to the tenancy. <i>Note on new ASB powers</i></p>
<p>When a single bad tenant or family who frighten/threaten the landlord cause houses to be empty around them (probably largely the 'good' tenants) can this be blamed on the landlord or is it more a completely ineffective support/enforcement system?</p>	<p>Other agencies such as the Police are key partners in this scheme. Landlords are being asked to take reasonable and effective steps in regards to ASB and not to act as a enforcement agency.</p>
<p>If private landlords only make up 1/3 of the housing, why have they been identified as the problem?</p>	<p>It is believed that there is a significant link between the private rented sector and the issues regarding ASB in the area. The selective licensing legislation only applies to landlords.</p>
<p>You are now shifting responsibility to landlords. If my tenant is on the list do I make him homeless? Would you help evict him because of anti-social behaviour? Who pays for this action?</p>	<p>The landlord is already responsible for managing anti-social behaviour. Selective licensing reinforces this. The landlord is responsible for managing their tenants' behaviour through information, education, co-operation with statutory authorities, or ultimately through eviction. The council will</p>



	<p>provide tenancy management training for licensed landlords, as an additional service. Landlords will remain liable for their foreseeable business costs of tenancy enforcement and legal eviction.</p>
<p>To charge £550 per house, what for? Are we paying for the bad landlords? We already pay 8% to the agent to do all these things proposed, why not charge all the landlords who don't use an agent?</p>	<p>Some landlords who manage their own tenancies do so very well. Some agents fail to tackle problem tenant behaviour. The choice of whether to use an agent depends on an individual landlord's experience, time available, geographical location and personal circumstances. The agreement between a landlord and agent does not cover the work involved by the local authority and is not relevant to the selective licensing fee.</p>
<p>What does the £550 provide to the landlord? What does Council going do about tenants who literally damage the house? Can the landlord increase the rent to cover the £550? Or Council reduce the Council Tax.</p>	<p>Private landlords can increase or decrease rents freely in line with market forces, subject to statutory notice requirements which allow tenants to choose accommodation that offers the best value for money for their rent payments. The council does not pay for tenant damage unless this is covered by a bond agreement with an accredited landlord. The landlord should use civil court arrangements to recover their losses in case of tenant damage. The financial arrangements for selective licensing, as with any other type of licence, are separate to council tax which covers broad public service costs across the district.</p>
<p>Whilst the fee of 550 is high I feel good housekeeping from the landlord should be rewarded, so why not offer a little pay back</p>	<p>While we would like to offer discounts to landlords who are members of DASH or a recognised landlord accreditation scheme, recent case law does not allow us to charge more for landlords who require enforcement than those who comply. The fee covers the administration of the licences so is the same for all, but landlords who breach conditions are liable to prosecution and further costs through fines.</p>
<p>Electrical safety certificates - why, when it's not a legal requirement?</p>	<p>The landlord has a duty of care to ensure that the electrical installation is safe. The provision of a periodic electrical safety certificate every five years is recommended good practice to evidence this. Professional landlords do not consider this an onerous requirement.</p>
<p>"Management arrangements - Overseas landlords deemed inappropriate." This is absolute</p>	<p>There are legal implications when a landlord lives overseas so we would always expect</p>

nonsense. Why is a landlord based in Cornwall more appropriate than one based in Dublin? What do you imagine a suitably located landlord can do that a non-suitably located landlord can't?	them to employ an agent with sufficient authority and financial resource to satisfy the licence conditions. If a landlord lives in the far reaches of the UK we will ask questions about their ability to inspect regularly and respond to emergencies, especially if no managing agent is named on the application.
Satisfactory procedures for dealing with anti-social behaviour - not required.	It is being requested that landlords take reasonable and effective steps when dealing with ASB related to their property and their tenants.
Please amplify what would be 'satisfactory processes for dealing with anti-social behaviour'/ The problem has defeated the police, and it doesn't seem fair that landlords should be penalised for tenants misbehaviour	It is being requested that landlords take reasonable and effective steps when dealing with ASB related to their property and their tenants.
The Clause "Having satisfactory procedures for dealing with anti-social behaviour" is unreasonable. If the tenant breaks the law or bylaw, then they are punished by the law, not the landlord - what control could we enforce??	It is being requested that landlords take reasonable and effective steps when dealing with ASB related to their property and their tenants.
Why is this licence non-refundable? Surely if I sell the property, I no longer need a licence.	The fee relates to processing the licence application, including many checks and service of notices specific to the landlord or individual licence. As these costs are incurred up front, the fee cannot be refunded.
Why would I need multiple licences if I have multiple properties? If the licence is about ensuring that I am a "fit and proper" landlord, what will change from one property to the next?	We have to consider the individual circumstances of each property and serve separate notices and licences for each address. The fit and proper person check is a small part of the process. If there is a delay between the applications for each premises, we have to check for new information.
Only landlords with problem properties/tenants should have to pay for licences. Why should this expense be forced upon existing landlords whose properties/tenants have never caused any problems?	The legislation states that the selective licensing power can only be used to cover all landlords in the designated area. Other enforcement powers such as the Housing Health and Safety Rating System are targeted towards non-compliant landlords on a case by case basis.
The council should pay the landlord £550 as an incentive to join the scheme. Why should the landlord pay?	This not allowable within the legislation.
Is it not the police who should be dealing with crime and anti-social behaviour?	Not entirely. Landlords are being asked to take reasonable and effective steps to deal with ASB issues.

<p>Council should tackle landlords that are not "fit and proper" and those that are not have to suffer due to their irresponsible behaviour. There are laws etc. that are already in place. Why can't those be enforced? All areas should be included. Why marginalise and already marginalised area?</p>	<p>Landlords that are not fit and proper can be tackled via a licensing scheme. Otherwise the Council cannot just assess a landlord as being fit and proper. This area is being selected due to the issues relating to ASB.</p>
<p>I think the 5 year licence should be for all landlords not just the SWW What are the penalties for more compliance of the licence and how?</p>	<p>Selective Licensing can only be introduced by law where the particular factors of ASB in the private rented sector and/or low demand can be evidenced. The SWW has been chosen due to stark contrasts between it and other comparable areas in the district.</p>
<p>Why not have a scheme for all of Gainsborough? If 46% of environmental enforcement requests come from the South-West ward, then clearly 54% come from elsewhere in Gainsborough. Landlords &amp; tenants should be subject to the same rules no matter what part of Gainsborough they own/let/rent in.</p>	<p>No, 54% come from the rest of the whole District including the towns of Market Rasen, Caistor, and all of the villages. The South West Ward is proportionately a tiny geographical area to have this amount of environmental nuisance.</p>
<p>The new licensing requirements cover landlords renting out business premises?</p>	<p>No the powers within Part 3 of the Housing Act 2004 only apply to privately rented, residential dwellings.</p>
<p>Would you be able to tackle the subject of absentee landlords in the area?</p>	<p>We will use tracing systems such as council tax records, land registry and tenancy documents to locate absentee landlords and ensure they apply for a licence or face prosecution. The licence application process and licence conditions are intended to ensure that properties are satisfactorily managed, regardless of the owner's location.</p>
<p>Our opinion is that implementation of such a scheme is likely to lead to a withdrawal of some buy to let landlords [...] has the council given this sort of action consideration?</p>	<p>Yes. This is identified as a risk to the Council.</p>
<p>What do landlords gain from this? This appears to be a form of tax on owning rented property. Is it legal? Is it compulsory?</p>	<p>The community benefits from a reduction in the impact of antisocial behaviour, and poorly managed properties which reduce housing demand. We hope that landlords will indirectly benefit from improvements in the neighbourhood leading to longer tenancies, fewer problem tenants and an increase in the value of their properties. The power to designate an area as subject to Selective Licensing is granted to the local authority by Section 80 of the Housing Act 2004. The power is discretionary, but if introduced then</p>

	a licence will be compulsory for all landlords in the designated area.
Why aren't there more police? Most of the problems are with the owner occupiers.	This question has been raised with the Police.
The authority already has the statutory powers to improve properties but chooses not to use them. Why should good landlords pay for the authority to enforce something it should already	The authority already has a mandatory duty to deal with Category 1 hazards in housing, has served a number of Housing Act notices in the Ward and will continue to do so if licensing is introduced. Selective licensing is not intended to improve the condition of properties and will not replace other statutory powers, but to tackle separate issues to complement the council's wider enforcement functions.
It sounds very expensive and what do landlords get for their £550 fee? Why only the sww. This seems very poor planning and to only target one area seems very dismissive of other areas	The fee has now been reduced to £375. Properties in the area will all be required to comply with the conditions of the licence. As a result property standards will improve, the level of ASB should reduce, which will improve the overall area.
Why just this area of GAINSBOROUGH /surely it should apply to all areas.	The area that can be designated is based on evidence in relation to levels of ASB and low housing demand. It cannot apply to all areas.
If this scheme should come in there be an extra discount if you have more than one property. Why only south west ward? What about other areas	The fee for carrying out the fit and proper persons check will be reduced for landlords with a certain number of properties.
How would the LA prevent property being rented out by irresponsible landlords without a licence?	The Council can then take legal action against those landlords.
I am not sure how you justify the fee £550 what work are you going to do for the money?	The fee calculation is shown within the report and is broken down across the tasks that are needed.
Will I get the money back if I pay your empty property rates?	If the property is empty then it is not privately let, and therefore not subject to selective licensing. Property owners are advised to calculate the rental income less licence fee, compared to no rental income, 150% council tax, and potential losses from vandalism and deterioration associated with leaving a property vacant.
How is this to be policed? Are you intending to recruit further officers, finances by the licence fee?	Yes. The licence fee will be used to ensure that s specific officer is allocated to the scheme.
I understand that WLDC buy empty properties to do up and re-sell in an attempt to uplift the area. It is a conflict of interests?	The Clusters of Empty Homes project aims to bring 100 long term empty homes in an area of South West Ward back to use by March 2015. Both the empty homes project and selective licensing are part of a wider

	programme to improve the neighbourhood, and complement each other as both aim to improve the housing stock and improve demand for homes.
Is it another way to make money out of people?	No, the scheme is self-financing but by law is not profit making.
Why should landlords have to pay more money to the council to sort out problems which you should already have dealt with?	This is a specific piece of legislation which solely concerns landlords. Alongside the scheme the council will continue to resource its services in the area.
What provisions can be made to cope with the possible cut of housing caused by landlords 'walking away' from their new responsibilities - is the council ready for the battle with unsuitable/untrainable existing tenants? Where are all of the 'unsuitable' tenants going to be housed?	The scheme allows the Council to take legal action against landlords that do not comply with the licence conditions.
How is having this licence going to actually alter anything? It will apparently impose a duty on me to provide smoke alarms and a gas safety certificate. This is already the law of the land	The licence conditions to take references, educate tenants and deal with anti-social tenants are intended to reduce incidents of anti-social behaviour and remove the stigma of the area as only suitable for trouble makers. We hope that once anti-social behaviour is reduced, and management standards have improved, a more balanced mix of tenants and homeowners will return to the neighbourhood.
It will apparently tackle anti-social behaviour, how exactly?	The licence requires landlords to take reasonable and effective steps to deal with ASB regarding their tenants, their tenants visitors and their property.
Why is it my responsibility to let tenants know what is and is not acceptable behaviour? Why is it just the South West ward who will have to have these licence?	It is the landlords responsibility under the licence to take reasonable and effective steps to deal with ASB. The scheme is focusing on the area within the district which is subject to the highest levels of ASB.
Isn't that a bit discriminatory to set one rule for some and another for others?	The selective licensing conditions are based on good property management practice which is already the norm elsewhere.
What exactly is a "fit and proper" person test? Who makes that decision, what is it based on? What if I fail it?	The council will consider if the licence holder has any criminal convictions, has breached other legislation, or has practiced unfair discrimination, which make him unsuitable to operate as a landlord. If the applicant is found not fit and proper, a licence cannot be granted, and the landlord would need to hand over all aspects of the property management to a non-related agent, remove it from the

	<p>renal market, or if the property is occupied, the council can make a Management Order to take over the running of the tenancy.</p>
<p>Why pick a period of 5 years to enforce this over? Surely the problem won't just go away after that time? Or is it more about your business plan for the next few years?</p>	<p>Five years is the maximum licence term allowed in the legislation. After five years we will evaluate the scheme and decide whether or not to renew depending on its success and the stability of the market at the scheme end.</p>
<p>Where has the figure of £550 come from as a licence fee?</p>	<p>This figure has now been reviewed.</p>
<p>Where have these figures for fines come from if I don't obtain these licences, and can you actually enforce that as I am not breaking any law, just your local rules which you are making up as you go along?</p>	<p>Failure to obtain a licence is a criminal offence under Section (9x??) of the Housing Act 2004. This is primary national legislation in force since 2006. The maximum fines are set by government within the Housing Act 2004 and individually awarded by a Magistrates Court.</p>
<p>How/when do you propose property inspection?</p>	<p>The council will inspect each property using their powers of entry in the Housing Act 2004 within the five year licence period and this will include an assessment of any hazards under the Housing Health and Safety Rating System as well as monitoring compliance with the licence conditions.</p> <p>We expect landlords to inspect their properties with sufficient frequency to identify and deal with disrepair and identify any misuse by the tenants, but we do not prescribe a rigid timescale. Many landlords and agents start with a bi-monthly or quarterly regime and then relax it once trust is built up with a tenant. Landlords must allow quiet enjoyment and give tenants at least 24 hours' notice of visits, preferably arranging a mutually convenient time.</p>
<p>Will you recommend or demand improvements are made where these may be advantageous?</p>	<p>We will require any deficiencies in the property which cause a Category 1 or high Category 2 hazard under the Housing Health and Safety Rating System to be remedied as under the existing Housing Enforcement Policy, but licensing is likely to identify hazards which would not otherwise be reported by tenants.</p>
<p>Where big improvements are required - i.e. new roof rewiring - are grants to be available for part of outlay needed?</p>	<p>There are currently no landlord grants available under West Lindsey's Housing Assistance Policy. Only works which make the property unsafe will be needed, and these are already the landlord's duty. Please visit <a href="http://www.energysavingtrust.org.uk">www.energysavingtrust.org.uk</a> to check</p>

	availability of financial assistance for energy efficiency improvements.
How does imposing this fee encourage investors into the area?	It demonstrates that the Council wishes to see improvements in the area and provides a 5 year period during which these improvements should be seen. The level of
As I already comply with all the proposed conditions I will be expected to pay £550 per house for doing what I already do. What exactly will I get in return?	You will still be required to have and pay for a licence. The scheme should bring benefits to all landlords as the property standards should increase and levels of ASB should reduce.
The inspections should be council (or community police?) led, because a landlord or agent has a conflict of interest.	The inspections will be carried out by the Council.
What the landlord can do is report anti-social behaviour to the police or Council and can take steps to evict the tenant and take possession of the property, but other than that what procedures could a landlord take?	The licence will require landlords to take reasonable and effective steps to deal with ASB.
Good landlords and tenants are being penalised. Does the council maintain these high standards in their own rented properties?	Any properties that the Council own in the area will meet the required standards and conditions.
I think it should be highlighted more about tenant responsibilities, not just what landlords need to do e.g. noise levels, ASB, refuse days (maybe a booklet like the selective licensing one? or a checklist?) - aimed at tenants	A tenant passport scheme will be introduced to ensure that landlords can be better informed about any prospective tenants.
The bad landlords will ignore the scheme and get away with it because so much is ignored in the ward. Will it actually be enforced?	Landlords who do not apply for a licence will be identified and enforcement action will be taken according to the Housing Enforcement Policy. This can include a criminal conviction and fines of up to £20,000.
Is this the cleansing of the poor and rich landlords have to increase the rent to maintain the standard?	No.
Can the payment schedule be reviewed to reduce the level of upfront payment?	This has been considered and is noted within the main committee report
Are there any tax related issues for the Council to consider in year 1?	Not that we are aware of, but we are continuing to look at this.
Schemes such as the Granary should be considered for removal as they are privately managed blocks of accommodation?	We intend to carry out further research to narrow down those streets where anti-social behaviour from private tenants is having a high impact.
Could the scheme be rolled out for a shorter period and if it is successful abolished part way through?	It could, but the up front costs of granting licences would be the same so the fees to landlords would be much higher with more frequent renewal periods. We would also want to be confident that the market had truly stabilised to a level where good

	management practices will continue when we look the other way.
Could property demolition and clearance be considered?	Yes, but it would not be considered as part of the selective licensing scheme.
How many accredited landlords are in this area and the district?	As of June 2014 there were 19 accredited landlords managing a total of 83 properties in the district. 29 of these properties are within Gainsborough and since the consultation period 2 additional landlords have applied for accreditation.
When tenants leave a property after trashing it what action does the Council propose to do to put landlords in contact with each other and how is this recorded by housing benefit as part of the consideration for starting a new claim?	Conduct of tenants cannot be considered by housing benefit as it is not a factor in a claimant's eligibility. We intend to offer a good tenant passport scheme which will help landlords to select a tenant with no adverse history or with appropriate support to sustain a tenancy.
Why do Acis not have to pay?	Part 3 of the Housing Act 2004 only applies to privately rented accommodation so we cannot include Registered Providers of social housing. Acis and other Registered Providers already have dedicated ASB officers to deal with similar issues.
How many of the problem properties are owned by big players like Acis and Nacro	Specific issues with properties owned by Housing Associations or charities will be raised directly with them
Most fly tipping will be from out of the area, what evidence is there that persons from the SWW are fly tipping there?	Most of the fly tipping is household waste, sofas etc. in the ten foots from local tenancy turnover, rather than builders rubble and typical fly tips from out of the area.
Is this a pilot in the SWW that will gradually be rolled out across Gainsborough or is it just a scheme to discriminate against some?	It is not intended to roll it out as the issues do not apply elsewhere.
Could a grant scheme be considered for front walls and ten foots in the whole area	Yes, this could be considered as part of the wider work in the SWW.
Can council members and family not be allowed to purchase properties in the area due to a conflict of interest	The Council cannot determine who can purchase property in the area. Any council members or their family who own property in the area will be subject to the same licence conditions.
Could you just increase police activity and enforcement presence in the area and achieve the same thing?	This would only tackle some of the problems and we hope to do this in conjunction with a selective licensing scheme.
If a property is sold during the licence period can the fee be recovered?	No, there are no refunds should you sell within the licence period. The new owner will then be subject to the fee also.



	Should a landlord decide to sell a property or wish to occupy it themselves the Council can issue a temporary exemption notice for up to three months if we are satisfied that reasonable steps have been taken to ensure that the property no longer requires a licence.
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## Appendix 4 – Proposed Licence Conditions

### **Licence Holder Information and Proposed Conditions of Licence**

#### **Obtaining a Licence**

All Licence Holder's will be expected to show that they are a 'fit and proper person' to be given a licence. West Lindsey District Council will look at whether they have:

- Committed any serious criminal offences (fraud, violence, drugs or sexual offences)
- Discriminated illegally against anyone
- Breached laws that relate to renting property

**The Council will adopt a common sense approach and exercise its discretion reasonably and proportionately in relation to applying 'fit and proper' tests and in accordance with Section 89 of the Housing Act 2004. A licence may be revoked if the Council no longer considers the licence holder to be a fit and proper person to be the licence holder.**

The council will also determine whether the Landlord/Managing Agent/Licence Holder is the most appropriate person to be given a licence depending on their interest and involvement in the property.

#### **Public Register**

The Council will be required to keep and maintain a publicly accessible register of all licensed properties.

This register will hold information such as the name and address of the licence holder, any managing agent, and details of any licence conditions and the dates of the licence issue.

## **Proposed Licence Conditions for Selective Licensing in Gainsborough South West Ward**

Licence Conditions will be imposed as part of the licensing scheme. Mandatory conditions are shown below, followed by additional conditions, which the council believes are also required.

(In these conditions 'house' refers to the building or part of a building, which is licenced in accordance with parts 2 and 3 of the Housing Act 2004)

### **Mandatory Conditions required by Schedules 4 & 10 of the Housing Act 2004**

**Gas** – if gas is supplied to the house the Licence Holder must provide to West Lindsey District Council a Gas Safety Certificate issued within the past 12 months at the time of application and thereafter annually or on demand

**Electrical Appliances** – the Licence Holder must keep all electrical appliances and furniture supplied in a safe condition and must provide a declaration as to their safety at the time of application and thereafter on demand

**Furniture and Furnishings** – the Licence Holder must ensure that any furniture and furnishings supplied by them are compliant with the Furniture and Furnishings (Fire Safety) regulations 1988 (as amended) and must provide a declaration as to their safety at the time of application

**Smoke Alarms** – the Licence Holder must ensure that smoke alarms are installed in the property and kept in proper working order and provide a declaration as to their condition and positioning to West Lindsey District Council on demand

**Tenant References** – the Licence Holder must demand references from persons who wish to occupy the property and must provide evidence to West Lindsey District Council upon request that pre letting reference checks have been undertaken. Where the tenant has rented a property in the UK in the last 2 years these checks shall include a landlord reference, which will include information on the tenants conduct and behaviour.

**Terms of Occupation** – the Licence Holder must supply to the occupiers of the house a written statement of the terms under which they occupy the property. Any tenancy agreement must comply with current legislation.

**Tenancy Deposit Protection** – the Licence Holder must comply with all the requirements of the tenancy deposit protection scheme covering tenants' deposits

## **Proposed additional conditions required by West Lindsey District Council**

**Management arrangements** – the Landlord/Licence Holder/Managing Agent must be suitably located to the licensable property to ensure adequate management, especially with regards to accessing the property, arranging repairs and being available to tenants. Each Landlord/Licence Holder/Managing Agent must provide the Council and any of its tenants with accurate and up to date contact details. This shall include contact details for out of hours emergencies. The Council will look at each application individually but would consider an overseas licence holder as inappropriate and expect a local managing agent to be employed. The Council would also expect a licence applicant to have suitable funding arrangements in place to deal with repairs etc. Therefore the application process will require the licence holder to declare they have suitable financial management procedures in place to ensure funds are available for any repairs or emergency remedial works.

**Fire Safety** – the Licence Holder will inform West Lindsey District Council of any changes to the positioning of smoke alarms, and if the property is a house in multiple occupation, produce a fire detection and alarm certificate on request.

If the main means of escape within the property is through the living room or kitchen, the licence holder will fit at least one means of escape window on the first floor.

**Property Management** – the Licence Holder must ensure that:-

- all repairs to the house, installations, facilities or equipment within it are carried out by competent & reputable persons
- all occupants of the house receive written confirmation detailing the arrangements for repairs, emergencies and reporting anti-social behaviour and nuisance
- the relevant occupier(s) is/are provided with copies of user manuals for equipment provided as part of the agreement for the occupation of the house
- ALL occupiers are made aware of the licence and conditions

**Security** – the Licence Holder must ensure that:-

- the security provisions for access to the dwelling (including but not limited to locks, latches, deadbolts and entry systems) must be maintained in good working order at all times
- where window locks are fitted, keys are provided to the relevant occupier

- where a burglar alarm is fitted the relevant occupier is shown how to use the system and informed in writing as to the arrangements for getting the alarm code changed
- where previous occupants have not surrendered keys, arrange for locks to be changed prior to new occupants moving in
- where alley gates or specific local security measures are installed to the property that satisfactory arrangements are in place for the occupiers access

**External areas, refuse and waste** – the Licence Holder must ensure that:-

- at all times any gardens, yards and other external areas within the curtilage of the house are kept in reasonably clean and tidy condition and free from rodent infestation and fouling from pets
- Adequate space and provision is made for storage of refuse and recyclables generated in the property. Landlords will make all occupants aware of West Lindsey's waste and recycling collection services and provide them with the relevant information regarding this. Landlord's should request this information in advance from West Lindsey District Council.

**Anti-social behaviour** – the Licence Holder must take all reasonable and effective steps to reduce anti-social behaviour by persons occupying or visiting the house and must not permit the use of the premises for illegal purposes.

In support of this the Licence Holder must:

- confirm on request the steps being taken to deal with an incident of anti-social behaviour at or in vicinity of the property.
- co-operate with West Lindsey District Council, Lincolnshire Police and other agencies in resolving complaints of anti-social behaviour

**Management** – the Licence Holder/Management Agents must:-

- make inspections of the property, not less than twice yearly to ensure that the property is in a decent state of repair and that the occupiers are not in breach of tenancy terms and conditions

upon receiving a reference request for a current or former tenant for the purposes of an application to rent the property of another Licence Holder, he/she must respond in writing within a reasonable period and not give any false statement

- make tenants aware that if they, other occupiers or their visitors, cause nuisance or annoyance to neighbours; use abusive or threatening behaviour or language to neighbours; fail to store or dispose of refuse correctly; cause damage to fixtures, fittings, alarm equipment, installations or to the fabric of the premises; fail to give access to the landlord or his/her agent for statutory purposes, they may be liable to enforcement action.

- must allow the Council to undertake compliance checks. Council Officers will normally give the licence holder 24 hours notice of the checks and produce valid identification at the time of the visit. (Note in circumstances where the Council suspect a breach of certain laws, regulation or other statutory requirements, notice of inspection is not required and Officers may use the Powers of Entry delegated to them)

**Notification of changes/consultation** - the Licence Holder must inform West Lindsey District Council of:

- details of any unspent convictions not previously disclosed to the Council that may be relevant to the Licence Holder/Managing Agent as regards their fit and proper status
- details of any finding by a court, not previously disclosed, against the Licence Holder/Managing Agent as regards unlawful discrimination
- details of any contravention, not previously disclosed, on the part of the Licence Holder/Managing Agent relating to housing, public health, environmental health or landlord/tenant law which led to a judgement being made in civil or criminal proceedings
- information about any property that the Licence Holder or Managing Agent either owns or manages, or has owned or managed where a other local authorities have refused to grant a licence under part 2 or 3 of the Act or has revoked a licence as a consequence of a breach of conditions
- the property becoming empty for more than 3 months
- notification of repossession/foreclosure/sale
- successful claims against the Licence Holder for default on tenancy deposits
- change in Managing Agent or appointment of a Managing Agent
- the undertaking of substantial works to the property or emergency problems such as fire, flood etc. and the tenants are made temporarily homeless

**The Council will take a reasonable and proportionate approach within the licensing process on standards and conditions and will work with landlords to ensure compliance as far as reasonably possible.**